



2003 Income Tax Special Instructions for...

- **nonresident military personnel with Utah non-military income (Part 1), and**
- **married couples where one spouse is a Utah nonresident (Part 2).**

Utah State Tax Commission

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Utah income tax return filing instructions for nonresident military personnel having non-military Utah income, or for married couples when one spouse is a full-year Utah resident and the other spouse is a nonresident.

Who Can Use These Instructions?

Qualified nonresident military personnel can use the special calculation in Part 1 to compute Utah income tax on their non-military Utah income. This could be from separate earnings from non-military employment, or from a non-military spouse's earnings. See specific instructions and examples in Part 1 of this publication.

A qualified married couple can use the special instructions in Part 2 to file separate Utah returns when they would otherwise be required to file a joint return. This applies in situations where one spouse is a full-year Utah resident and the other spouse is a full-year nonresident. If either spouse is a part-year Utah resident, the couple cannot file using these Special Instructions, but must prepare their Utah return using the same filing status as on their federal return. See specific instructions and examples in Part 2 of this publication.

Part 1 – Nonresident Military Personnel with Utah Non-military Income

General Information

The spouse of a person in active duty military service is generally considered to have the military spouse's domicile and is subject to the same income tax laws and rules that apply to the military spouse.

Nonresidents who are stationed in Utah solely due to military orders are not subject to Utah tax on their active duty military pay. However, nonresident military personnel and members of their family who have earned income from Utah sources, other than active duty military service pay, are required to file nonresident Utah tax returns and pay any taxes due.

In December 2003, Congress passed and the President signed into law the Servicemembers Civil Relief Act, H.R. 100. A provision of this new law prohibits states from including the military income of a nonresident service member when determining the individual income tax rate for either the service member or the service member's spouse on a joint return. To ensure nonresident military service members receive the benefit of this provision of the new law, nonresident active duty military service members who are required to file a 2003 Utah individual income tax return need to use the following special calculation.

Military service members using these instructions to file a 2003 Utah tax return **MUST** file a paper return. These returns cannot be filed electronically.

Military Personnel Who Should Use These Instructions

Nonresident Utah military persons (or their spouse if filing a joint return) stationed in Utah who have Utah income from sources other than military pay must use these instructions to calculate their Utah tax.

A nonresident military person and his or her spouse may also use the Special Instructions in Part 2 if one is a full-year Utah resident and the other is a full-year nonresident.

How Nonresident Military Personnel Calculate Their Utah Tax

In the top right hand margin of the Utah TC-40, write in bold lettering "NONRESIDENT MILITARY".

Single Military Personnel: Military personnel who are not married, should calculate their Utah tax as follows:

1. Follow the line-by-line instructions for completing the Utah TC-40.
2. Deduct any active duty military pay that was included in federal adjusted gross income as an "Other Deduction" on the Utah TC-40, line 13. Use **code "79"** for this deduction.
3. Calculate the Utah tax on line 16.

4. Calculate the Utah ratio (for line 17) on form TC-40C with the following adjustments.
 - a. Do not include the active duty military income in column B, line 1. This will cause column B to not agree with the federal return but is necessary to properly calculate the Utah tax.
 - b. Bring over the totals from line 28 of form TC-40C to line 17 of the TC-40: column A to box a on line 17, and column B to box b.
 - c. Calculate the ratio of Utah income to total income (to four decimal places) and enter the result in box c on line 17.

5. Complete the remainder of the Utah return per TC-40 instructions.

Married Military Personnel: Military personnel filing married filing joint on their federal return may file a joint Utah return and follow the instructions above. If one spouse is a full-year Utah resident and the other is a full-year nonresident, they may choose to use Special Instructions under Part 2. If they qualify to file under Part 2, they should make the above adjustments to the separate return of the active duty military spouse, then follow the calculation instructions in Part 2 below.

Examples for Tax Year 2003

Single Military Personnel:

James is a single nonresident taxpayer in active duty military service stationed in Utah. In addition to his active duty military pay of \$18,000, James has non-military pay from a Utah source of an additional \$12,500. James is required to file a nonresident Utah return. His Utah nonresident return is calculated as follows:

	Federal Return Form 1040EZ	Utah Return Form TC-40
Federal adjusted gross income	\$30,500	\$30,500
State income tax deducted as an itemized deduction	0	0
Other additions to income	0	0
Standard or itemized deductions	(4,750)	(4,750)
Personal exemption (75% of federal)	(3,050)	(2,288) *
Federal tax (state deduction 1/2 of federal)	(3,059)	(1,530)
Other deductions – code 79, military pay		(18,000)
Utah taxable income		3,932
Utah tax calculated on line 16		158
Ratio for line 17:		
Utah total adjusted income	\$12,500	
Federal total adjusted income	12,500 **	
Ratio	1.0000	
Utah tax calculated on line 17 (line 16 times ratio)		158

* State personal and dependent exemption amount for 2003 is \$2,288 (75% of federal exemption amount of \$3,050).

** The federal total income figure used in the ratio calculation is \$30,500 federal adjusted gross income less \$18,000 military pay.

Married Military Personnel:

Terry is a married active duty military member whose military home of record is Arizona. He was transferred to Hill Air Force Base in March of 2003. He and his wife had federal adjusted gross income on their federal return of \$55,600. Terry had active duty military pay of \$24,875, and his spouse had non-military income of \$4,700 from her previous employment in Arizona and \$25,775 from her non-military job in Utah, plus \$250 of interest earned from their bank in Arizona. They are required to file a nonresident Utah return. Their Utah nonresident return is calculated as follows:

	Federal Return Form 1040EZ	Utah Return Form TC-40
Federal adjusted gross income	\$55,600	\$55,600
State income tax deducted as an itemized deduction	0	0
Other additions to income	0	0
Standard or itemized deductions	(9,500)	(9,500)
Terry's personal exemption	(3,050)	(2,288) *
Spouse's personal exemption	(3,050)	(2,288) *
Federal tax (state deduction 1/2 of federal)	(5,304)	(2,652)
Other deductions – code 79, military pay		(24,875)
Utah taxable income		13,997
Utah tax calculated on line 16		738
Ratio for line 17:		
Utah total adjusted income	\$25,775	
Federal total adjusted income	30,725 **	
Ratio	.8389	
Utah tax calculated on line 17 (line 16 times ratio)		619

* State personal and dependent exemption amount for 2003 is \$2,288 (75% of federal exemption amount of \$3,050).

** The federal total income figure used in the ratio calculation is \$55,600 federal adjusted gross income less \$24,875 military pay.

These instructions may apply to a previous year; consult your tax advisor.

Part 2 – Married Couples Where One Spouse is a Utah Nonresident

General Information

When a husband and wife file a joint federal return, they would normally be required to file a joint Utah return. However, when one spouse is a full-year Utah resident and the other spouse is a full-year nonresident, they may file using these Special Instructions.

If either spouse is a part-year Utah resident, the couple cannot file using these Special Instructions, but must prepare their Utah return using the same filing status as on their federal return.

Married Couples Who Should Use Special Instructions

A married person and his or her spouse can only use these Special Instructions if one of them is a full-year Utah resident and the other is a full-year nonresident.

A spouse who was a full-year Utah resident before marrying a nonresident person may use these Special Instructions. Also, if the spouse is a full-year Utah resident who came to Utah to live without their spouse, he or she may use these Special Instructions.

Example: Tom and Susan married in June of 2003. Tom is a full-year Utah resident, but Susan lived in Florida prior to their wedding. Both Tom and Susan have income from Utah sources. Tom and Susan do not qualify to use Special Instructions because Susan was a part-year Utah resident. If they file a joint federal return for 2003, they must file a joint Utah nonresident return.

How To Calculate Utah Tax Using Special Instructions

Married couples that qualify to use Special Instructions may file a federal return as married filing joint but may file Utah returns as married filing separate. If they file a joint federal return, both spouses must compute Utah taxable income as if their federal income had been computed separately, as follows. (Include documentation of all computations with the Utah return.)

1. Determine the total federal adjusted gross income for each spouse. Divide any adjustments between the spouses in proportion to their respective incomes.
2. Allocate a portion of each Utah add-back item (lines 5 and 6 of TC-40) and deduction (lines 8 through 13 of TC-40) to each spouse. Determine this allocation as follows:

- a. Divide the federal adjusted gross income of each spouse by the federal adjusted gross income shown on their joint federal return. Round the resulting percentage to four decimal places.
 - b. Multiply each Utah add-back item and deduction by the percentage calculated in "a" above. The allocable add-back items and deductions are:
 - State income tax deducted as an itemized deduction on federal Schedule A.
 - Other items that must be added back to federal adjusted gross income on the state return (see instructions for line 6 of TC-40).
 - Itemized or standard deductions.
 - State exemptions for dependents.
 - One-half the federal tax liability.
 - State income tax refund included on the federal return.
 - Other state deductions (see instructions for line 13 of TC-40).
3. The only item on the Utah return that is not allocated between the spouses' separate Utah returns is his or her personal exemption.
- Example: If the husband has 80% of the federal adjusted gross income, he may add-back or deduct 80% of each item listed in "2-b" above but he may deduct 100% of his personal exemption. The wife would add-back or deduct 20% of each item listed in "2-b" above and deduct 100% of her personal exemption.
4. The amounts claimed on the Utah return, line 5 (state income tax deducted as an itemized deduction) and line 8 (itemized deductions) are limited if federal adjusted gross income exceeds \$69,750. (The standard deduction, if claimed on line 8, is not subject to any limitation.) See the IRS instructions for Schedule A if this limitation applies to either spouse.
- Line 9 (personal exemption deduction) is limited if federal adjusted gross income exceeds \$104,625. See the Utah instructions for line 9 if this limitation applies to either spouse.
5. Complete the remainder of the Utah return.
- a. Resident spouse – Use the Utah taxable income on line 15 to calculate the income tax.
 - b. Nonresident spouse – Use the Utah taxable income on line 15 to calculate the income tax. Complete form TC-40C to determine the income from Utah sources. Follow the instructions for line 17 of the return, "For Non or Part-year Residents Only" to calculate the Utah tax.
- A nonresident spouse with no Utah source income is not required to file a Utah return.

Example for Tax Year 2003

Becky was a full-year resident of Utah before marrying Alex in December 2003. Becky had a dependent daughter by a previous marriage. Alex's home of record prior to the wedding was Wyoming. After their honeymoon, they returned to Utah and established residence in 2004. They qualify to use Special Instructions because Becky was a full-year Utah resident and Alex was a full-year nonresident. Their combined federal adjusted gross income reported on their federal joint return was \$75,000, consisting of \$45,000 earned by Alex in Wyoming and \$30,000 earned by Becky in Utah. Dividing \$30,000 by \$75,000 equals .40 or 40% to be used by Becky to allocate the different items on her separate Utah resident return.

Becky (Utah Resident)

	Joint Federal Return From 1040	Joint State Return Form TC-40	Percentage Allocation	Separate State Return Form TC-40
Federal adjusted gross income	\$75,000	\$75,000		\$30,000
State income tax deducted as an itemized deduction	3,710	3,710	0.40	1,484
Other deductions to income	0	0	0.40	0
Standard or itemized deductions	(10,000)	(10,000)	0.40	(4,000)
Alex's personal exemption	(3,050)	(2,288) *	.00	0
Becky's personal exemption	(3,050)	(2,288) *	1.00	(2,288)
Dependent's exemption	(3,050)	(2,288) *	0.40	(915)
Federal tax (state deduction 1/2 of federal)	(7,681)	(3,841)	0.40	(1,536)
State refund from line 10 of federal return	(25)	(25)	0.40	(10)
Other deductions	0	0	0.40	0
Utah Taxable Income				\$22,735
Utah tax calculated on line 16 (using married filing separate rates)				\$1,471

*State exemption for 2003 is \$2,288 (75% of federal exemption of \$3,050).

Couples who qualify to use Special Instructions may use a different method of allocating deductions or add-back items than outlined in this publication, if that method more accurately reflects each spouse's separate state taxable income. Include documentation of your computations with your return.